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APR 26 2005
UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

In re	Case No. 05-21924-C-7
GLENDA BIANCO,	DC No. MBB-1
Debtor.	

FINDINGS OF FACT AND CONCLUSIONS OF LAW ON MOTION FOR RELIEF FROM AUTOMATIC STAY

These findings of fact and conclusions of law are rendered in this contested matter pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014.

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334. This is a core proceeding. 28 U.S.C. § 157(b)(2)(G).

Findings of Fact

Debtor filed this voluntary chapter 7 petition on February 23, 2005. Debtor scheduled real property commonly known as 19816 First Street, Cottonwood, California ("the property"). The property was scheduled as exempt in the amount of

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$33,116.78. The continued first meeting of creditors is scheduled for April 15, 2005.

On March 25, 2005, ABN AMRO Mortgage Group, Inc ("movant") filed a motion, notice, and declaration requesting that this court vacate the automatic stay to permit movant to commence foreclosure proceedings against the property. The motion and declaration establish that the debtor owes the movant approximately $162,401.47, excluding attorneys' fees and costs. The value of the property is approximately $160,000. Movant requests attorneys' fees and costs.

On April 26, 2005, a hearing was held on movant's motion for relief from the automatic stay. Movant represented that the trustee agreed to enter into a stipulation terminating relief from the stay after the trustee had an opportunity to market the property. Thereafter, the court concluded that it would resolve the relief from stay motion as submitted and further continue movant's request for attorney's fees and costs.

The court notes that has not received a discharge and the last day to file an objection to discharge is June 14, 2005.

Conclusions of Law

The automatic stay of acts against the debtor in personam and of acts against property other than property of the estate continues until the earliest of the time when the bankruptcy case is closed, dismissed, or an individual in a chapter 7 case is granted a discharge. 11 U.S.C. § 362(c). However, the automatic stay may be terminated earlier if debtor fails to

adequately protect the secured party's interest, § 362(d)(1), and, with respect to a stay of an act against property, the debtor does not have equity in the property, § 362(d)(2)(A), and the property is not necessary to an effective reorganization. § 362(d)(2).

In this instance, debtor's numbers indicate that she has equity in excess of $33,116.78; movant's numbers indicate that debtor has equity in excess of $26,798.53. Because debtor has equity, the motion requesting relief from the automatic stay as against the debtor shall be denied as moot without prejudice.

As to the trustee, the motion is granted in accordance with the stipulation entered into between movant and the trustee.

Additionally, the hearing on the requests for attorneys' fees and costs is continued to June 7, 2005. Any party wishing to supplement the record may do so before May 31, 2005.

An appropriate order will issue.

Dated: April 26, 2005

UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF SERVICE

On the date indicated below, I served a true and correct copy(ies) of the attached document by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed and by depositing said envelope in the United States mail or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's Office.

Glenda Bianco
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Cottonwood, CA 96022

ABN Mortgage Group, Inc
c/o Miles, Bauer, Bergstrom & Winters, LLP
1665 Scenic Avenue, Suite 200
Costa Mesa, CA 92626

Office of the United States Trustee
United States Courthouse
501 I St., Suite 7-500
Sacramento, CA 95814

Dated: 4/28/05

Barbara Reynolds

Deputy Clerk

BARBARA REYNOLDS